



# House of Representatives

General Assembly

**File No. 155**

*February Session, 2000*

Substitute House Bill No. 5884

*House of Representatives, March 21, 2000*

The Committee on Finance, Revenue and Bonding reported through REP. MCDONALD of the 148<sup>th</sup> Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***An Act Concerning The Authority Of The Treasurer Regarding Investment Of State Trust Funds.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. Section 3-13b of the general statutes is repealed and the  
2       following is substituted in lieu thereof:

3       (a) There is created an Investment Advisory Council which shall  
4       consist of the following: (1) The Secretary of the Office of Policy and  
5       Management who shall serve as an ex-officio member of said council;  
6       (2) the State Treasurer who shall serve as an ex-officio member of said  
7       council; (3) five public members all of whom shall be experienced in  
8       matters relating to investments. The Governor, the president pro  
9       tempore of the Senate, the Senate minority leader, the speaker of the  
10      House of Representatives and the minority leader of the House of  
11      Representatives shall each appoint one such public member to serve  
12      for a term of four years. No such public member or such member's

13 business organization or affiliate shall directly or indirectly contract  
14 with or provide any services for the investment of trust funds of the  
15 state of Connecticut during the time of such member's service on said  
16 council and for one year thereafter. The term of each public member in  
17 office on June 30, 1983, shall end on July 1, 1983. The appointing  
18 authority shall fill all vacancies of the public members; (4) three  
19 representatives of the teachers' unions, and two representatives of the  
20 state employees' unions. On or before July 15, 1983, the teachers'  
21 unions shall jointly submit to the State Treasurer a list of three  
22 nominees, and the state employees' unions or a majority thereof who  
23 represent a majority of state employees shall jointly submit to the  
24 Treasurer a list of two nominees. On or before July 30, 1983, the  
25 Governor shall appoint five members of the council from such lists, for  
26 terms of two years. Any person appointed to fill a vacancy or to be a  
27 new member at the expiration of a given term, whose predecessor in  
28 that position was either a representative of one of the teachers' unions  
29 or one of the state employees' unions, shall also be a representative of  
30 such respective union group. Any such appointee shall be appointed  
31 by the Governor from a list of nominees submitted to the Treasurer by  
32 the teachers' unions or state employees' unions or such majority  
33 thereof, as the case may be, within thirty days of notification by the  
34 Treasurer of the existence of a vacancy or a prospective vacancy, or the  
35 expiration or prospective expiration of a term. All members of the  
36 council shall serve until their respective successors are appointed and  
37 have qualified. No public member of the council shall serve more than  
38 two consecutive terms which commence on or after July 1, 1983.

39 (b) The Governor shall designate one of the members to be  
40 chairperson of the council to serve as such at [his] the Governor's  
41 pleasure. The Treasurer shall serve as secretary of said council. A  
42 majority of the members of the council then in office will constitute a  
43 quorum for the transaction of any business, and action shall be by the  
44 vote of a majority of the members present at a meeting. Votes by  
45 members on investment policies shall be recorded in the minutes of

46 each meeting. Members of said council shall not be compensated for  
47 their services but shall be reimbursed for all necessary expenses  
48 incurred in the performance of their duties as members of said council.  
49 The council shall meet at least once during each calendar quarter and  
50 at such other times as the chairperson deems necessary or upon the  
51 request of a majority of the members in office. Special meetings shall  
52 be held at the request of such majority after notice in accordance with  
53 the provisions of section 1-225, as amended. Any member who fails to  
54 attend three consecutive meetings or who fails to attend fifty per cent  
55 of all meetings held during any calendar year shall be deemed to have  
56 resigned from office.

57 (c) (1) The Treasurer shall recommend to the Investment Advisory  
58 Council an Investment Policy Statement which shall set forth the  
59 standards governing investment of trust funds by the Treasurer. Such  
60 statement shall include, with respect to each trust fund, without  
61 limitation, (A) investment objectives; (B) asset allocation policy and  
62 risk tolerance; (C) asset class definitions, including specific types of  
63 permissible investments within each asset class and any specific  
64 limitations or other considerations governing the investment of any  
65 funds; (D) investment manager guidelines; (E) investment  
66 performance evaluation guidelines; (F) guidelines for the selection and  
67 termination of providers of investment related services who shall  
68 include, but not be limited to, investment advisors, external money  
69 managers, investment consultants, custodians, brokers, legal counsel,  
70 and similar investment industry professionals; and (G) proxy voting  
71 guidelines. Such statement shall further include a description of the  
72 role of the investment department staff in making decisions regarding  
73 investment of trust funds, including any procedures or policies which  
74 facilitate the management of information necessary for decision-  
75 making related to trust fund investment and any procedures or  
76 policies by which such information shall be disclosed to the public. A  
77 draft of the statement shall be submitted to the Investment Advisory  
78 Council at a meeting of said council and shall be made available to the

79 public. Notice of such availability shall be published in at least one  
80 newspaper having a general circulation in each municipality in the  
81 state which publication shall be not less than two weeks prior to such  
82 meeting. Said council shall review the draft statement and shall  
83 publish any recommendations it may have for changes to such  
84 statement in the manner provided for publication of the statement by  
85 the Treasurer. The Treasurer shall thereafter adopt the statement,  
86 including any such changes the Treasurer deems appropriate. Any  
87 revisions or additions to the Investment Policy Statement shall be  
88 made in accordance with the procedures set forth in this subdivision  
89 for the adoption of the statement. The Treasurer shall annually review  
90 the Investment Policy Statement and shall consult with the Investment  
91 Advisory Council regarding possible revisions to such statement.

92 [(c)] (2) All trust fund investments by the State Treasurer shall be  
93 reviewed by said Investment Advisory Council. [The council shall  
94 recommend to the State Treasurer investment policies consistent with  
95 the law pertaining to the kind or nature of investment, including  
96 limitations, conditions or restrictions upon the methods, practices or  
97 procedures for investment, reinvestment, purchase, sale or exchange  
98 transactions.] The Treasurer shall provide to the council all  
99 information regarding such investments which may be relevant to the  
100 council's review. The council shall promptly notify the Auditors of  
101 Public Accounts and the Comptroller of any unauthorized, illegal,  
102 irregular or unsafe handling or expenditure of trust funds or  
103 breakdowns in the safekeeping of trust funds or contemplated action  
104 to do the same within their knowledge. The Governor may direct the  
105 Treasurer to change any investments made by the Treasurer when in  
106 the judgment of said council such action is for the best interest of the  
107 state. Said council shall, at the close of the fiscal year, make a complete  
108 examination of the security investments of the state and determine as  
109 of June thirtieth, the value of such investments in the custody of the  
110 Treasurer and report thereon to the Governor, the General Assembly  
111 and beneficiaries of trust funds administered, held or invested by the

112 Treasurer. With the approval of the Treasurer and the council, said  
113 report may be included in the Treasurer's annual report. [The  
114 provisions of this section shall apply to all investments made by the  
115 Treasurer for both trust and civil list funds.]

116 (d) The Investment Advisory Council shall be within the office of  
117 the State Treasurer for administrative purposes only.

118 (e) For the purposes of this section, "teachers' union" means a  
119 representative organization for certified professional employees, as  
120 defined in section 10-153b, and "state employees' union" means an  
121 organization certified to represent state employees, pursuant to section  
122 5-275.

123 Sec. 2. Subsection (a) of section 3-13d of the general statutes is  
124 repealed and the following is substituted in lieu thereof:

125 (a) Notwithstanding any other provision in the general statutes or  
126 elsewhere to the contrary, the Treasurer shall invest as much of the  
127 state's trust funds as are not required for current disbursements in  
128 accordance with the provisions of section 45a-203 or the provisions of  
129 this part. [Notwithstanding the provisions of this section or any other  
130 provision in the general statutes or elsewhere to the contrary, the  
131 Treasurer shall not invest more than fifty-five per cent of the market  
132 value of each such trust fund in common stock, except in the event of a  
133 stock market fluctuation that causes the common stock percentage to  
134 increase and the Treasurer deems it in the best interest of such trust  
135 fund to maintain a higher percentage of equities, provided the  
136 Treasurer shall not allow the market value of each such trust fund in  
137 common stock to exceed fifty-five per cent for more than six months  
138 after such fluctuation occurs. Investments in real estate investment  
139 trusts (REITS) shall be considered alternative investments and not  
140 common stock investments under this section.] All trust fund  
141 investments shall be made in accordance with the Investment Policy  
142 Statement adopted under section 3-13b, as amended by this act. In

143 order to increase the income for each such combined investment fund  
144 established pursuant to section 3-31b, the Treasurer may enter into  
145 repurchase agreements or lend securities from each such fund,  
146 provided that at the time of the execution of the repurchase agreement  
147 or the loan at least one hundred per cent of the market value of the  
148 security sold or lent shall be received as consideration in the form of  
149 cash or securities guaranteed by the United States government or any  
150 agency of the United States government in the case of a repurchase  
151 agreement or secured by cash or such securities in the case of a loan.  
152 At all times during the term of each such repurchase agreement or the  
153 term of each such loan the consideration received or the collateral shall  
154 be equal to not less than ninety-five per cent of the full market value of  
155 the security and said consideration received or said collateral shall not  
156 be more than one hundred thousand dollars less than the full market  
157 value of the security. The Treasurer may sell call options which would  
158 give the holders of such options the right to purchase securities held  
159 by the Treasurer at the date the call is sold for investment purposes,  
160 under such terms and conditions as the Treasurer may determine.  
161 Among the factors to be considered by the Treasurer with respect to all  
162 securities may be the social, economic and environmental implications  
163 of investments of trust funds in particular securities or types of  
164 securities. In the investment of the state's trust funds the Treasurer  
165 shall consider the implications of any particular investment in relation  
166 to the foreign policy and national interests of the United States.

167       Sec. 3. (NEW) On and after January 1, 2001, any contract for services  
168 related to the investment of trust funds, as defined in section 3-13c of  
169 the general statutes, shall be subject to the Investment Policy Statement  
170 adopted under section 3-13b of the general statutes, as amended by  
171 this act. No contract for services related to the investment of such  
172 funds shall be awarded to a provider of such services until the  
173 Treasurer's recommendation of a provider is reviewed by the  
174 Investment Advisory Council. The Treasurer shall provide notice of  
175 such recommendation at a meeting of the council. Not later than forty-

176 five days after such meeting, the council may file a written review of  
177 the Treasurer's recommendation concerning the selection of such  
178 provider with the Office of the Treasurer where it shall be available for  
179 public inspection. The Treasurer may proceed to award the contract  
180 after such forty-five day period.

181       Sec. 4. Section 3-13d of the general statutes is amended by adding  
182 subsection (e) as follows:

183       (NEW) (e) Notwithstanding any provision of the general statutes,  
184 neither the Treasurer, the Deputy Treasurer nor any acting Treasurer  
185 shall make a private equity or real estate investment or execute a  
186 contract for services related to the investment of trust funds, as defined  
187 in section 3-13c of the general statutes, without the approval of the  
188 Investment Advisory Council, for the balance of the Treasurer's term  
189 of office, on or after any of the following events: (1) The defeat of the  
190 Treasurer (A) in a ballot for the party nomination for Treasurer at a  
191 convention where said Treasurer was a candidate for nomination, (B)  
192 in a primary for nomination for said office where said Treasurer was a  
193 candidate for nomination, or (C) upon the completion of a recanvass of  
194 the returns from such primary under section 9-445 or 9-446, whichever  
195 is later, (2) the defeat of said Treasurer (A) in the election for said office  
196 or (B) upon the completion of a recanvass of the returns from such  
197 election under section 9-311, 9-311a or 9-311b, or (3) the resignation of  
198 the Treasurer, provided this section shall not apply to a Treasurer  
199 approved by the General Assembly under section 9-213 of the general  
200 statutes, as amended by this act.

201       Sec. 5. (NEW) (a) Prior to the Treasurer entering into a contract for  
202 investment services, as defined in section 9-333n of the general  
203 statutes, any person or entity who would be a party to that contract  
204 shall disclose to the Treasurer, in writing, all third party fees  
205 attributable to such contract. Such disclosure shall be made by firms  
206 providing such services and shall be in a sworn affidavit in a manner

207 and form prescribed in regulations which shall be adopted by the  
208 Treasurer, in accordance with the provisions of chapter 54 of the  
209 general statutes, not later than three months after the effective date of  
210 this section. Information disclosed under this subsection shall be made  
211 available for public inspection. The direct purchase or sale of  
212 individual securities under such contract shall be executed only  
213 through banks, brokers or dealers that have made required disclosures  
214 regarding any such third party fees.

215 (b) Prior to any quasi-public agency, as defined in section 1-120 of  
216 the general statutes, entering into a contract for investment services, as  
217 defined in section 9-333n of the general statutes, any person or entity  
218 who would be a party to that contract shall disclose to the quasi-public  
219 agency entering into the contract, in writing, all third party fees  
220 attributable to such contract. Such disclosure shall be made by firms  
221 providing such services and shall be in a sworn affidavit in a manner  
222 and form as prescribed in regulations which shall be adopted by each  
223 such agency, in accordance with the provisions of chapter 54 of the  
224 general statutes, not later than three months after the effective date of  
225 this section. Information disclosed under this subsection shall be made  
226 available for public inspection. The direct purchase or sale of  
227 individual securities under any such contract shall be executed only  
228 through banks, brokers or dealers that have made required disclosures  
229 regarding any such third party fees.

230 (c) For purposes of this section and section 6 of this act, "third party  
231 fees" includes, but is not limited to, management fees, placement agent  
232 fees, solicitation fees, referral fees, promotion fees, introduction or  
233 matchmaker fees, and due diligence fees.

234 Sec. 6. (NEW) (a) The Treasurer shall not direct the payment of any  
235 third party fees to any person other than third party fees paid in  
236 connection with state bond sales or fees permitted by the Internal  
237 Revenue Code in connection with guaranteed investment contracts



238 related to debt issuance.

239 (b) Neither the Treasurer, nor any agent or employee of the  
240 Treasurer, shall make personal use of any credit or thing of value given  
241 by a broker or firm in connection with the investment of trust funds.

242 Sec. 7. (NEW) (a) No person may, directly or indirectly, pay a  
243 finder's fee to any person in connection with any investment  
244 transaction involving the state or any political subdivision of the state.  
245 No person may, directly or indirectly, receive a finder's fee in  
246 connection with any investment transaction involving the state or any  
247 political subdivision of the state.

248 (b) For purposes of this section:

249 (1) "Finder's fee" means compensation in the form of cash, cash  
250 equivalents or other things of value paid or received in connection  
251 with an investment transaction to which the state, any political  
252 subdivision of the state or any quasi-public agency, as defined in  
253 section 1-120 of the general statutes, is a party for any services, and  
254 includes, but is not limited to, any fee paid for lobbying, as defined in  
255 subsection (k) of section 1-91 of the general statutes.

256 (2) "Finder's fee" does not mean (A) compensation earned for the  
257 rendering of investment services as defined in subsection (f) of section  
258 9-333n of the general statutes, (B) marketing fees or due diligence fees  
259 earned by the payee in connection with the offer, sale or purchase of  
260 any security or investment interest, as defined in regulations which  
261 shall be adopted by the Treasurer in accordance with the provisions of  
262 chapter 54 of the general statutes, or (C) paid to persons who are  
263 investment professionals engaged in the ongoing business of  
264 representing investment managers.

265 (3) "Investment professional" means an individual or firm whose  
266 primary business is bringing together institutional investors and

267 investment opportunities and who (A) is a broker-dealer or investment  
268 advisor licensed or registered (i) under the Connecticut Uniform  
269 Securities Act; (ii) with the Securities and Exchange Commission, in  
270 accordance with the Investment Advisors' Act of 1940 or the Securities  
271 Exchange Act of 1934; or (iii) with the National Association of  
272 Securities Dealers in accordance with the Securities Exchange Act of  
273 1934, or (B) (i) furnishes an investment manager with marketing  
274 services including, but not limited to, developing an overall marketing  
275 strategy focusing on more than one institutional investor, designing or  
276 publishing marketing brochures or other presentation material such as  
277 logos and brands for investment products, responding to requests for  
278 proposals, completing due diligence questionnaires, identifying a  
279 range of potential investors, or such other services as may be identified  
280 in regulations adopted by the Treasurer, in accordance with the  
281 provisions of chapter 54 of the general statutes, and (ii) has contacts  
282 regarding potential investments with more than ten institutional  
283 investors in the preceding twelve months or was involved in more  
284 than one transaction or potential transaction in the preceding twelve  
285 months.

286       Sec. 8. (NEW) (a) Any person who violates any provision of section  
287 5 of this act shall be assessed a civil penalty not to exceed two  
288 thousand dollars, to be fixed by the court, for each violation.

289       (b) Any person who violates any provision of section 7 of this act  
290 shall be assessed a civil penalty not to exceed ten thousand dollars, to  
291 be fixed by the court, for each violation.

292       (c) The Attorney General, upon complaint of the Treasurer, shall  
293 institute a civil action in the superior court for the judicial district of  
294 Hartford to recover any such penalty. In determining the amount of  
295 any penalty assessed under this section, the court may consider the  
296 nature, circumstances, extent and gravity of the violation, the person's  
297 prior history of violations, the economic benefit resulting to the person

298 from the violation, and such other factors deemed appropriate by the  
299 court.

300 Sec. 9. Section 1-89 of the general statutes is amended by adding  
301 subsection (d) as follows:

302 (NEW) (d) Any fines, penalties or damages paid, collected or  
303 recovered under section 1-88 or this section for a violation of any  
304 provision of this part applying to the office of the Treasurer shall be  
305 deposited on a pro rata basis in any trust funds, as defined in section 3-  
306 13c, as amended, affected by such violation.

307 Sec. 10. Section 1-100 of the general statutes is repealed and the  
308 following is substituted in lieu thereof:

309 (a) Any person who intentionally violates any provision of this part  
310 shall be imprisoned for a term not to exceed one year or shall be fined  
311 an amount not to exceed two thousand dollars, or both.

312 (b) Any fines, penalties or damages paid, collected or recovered  
313 under section 1-99 or this section for a violation of any provision of this  
314 part applying to the office of the Treasurer shall be deposited on a pro  
315 rata basis in any trust funds, as defined in section 3-13c, as amended,  
316 affected by such violation.

317 Sec. 11. Subdivision (2) of section 9-7b of the general statutes is  
318 repealed and the following is substituted in lieu thereof:

319 (2) To levy a civil penalty not to exceed (A) two thousand dollars  
320 per offense against any person the commission finds to be in violation  
321 of any provision of chapter 145, part V of chapter 146, part I of chapter  
322 147, chapter 148, section 9-12, subsection (a) of section 9-17, section 9-  
323 19b, 9-19e, 9-19g, 9-19h, 9-19i, 9-20, 9-21, 9-23a, 9-23g, 9-23h, 9-23j to 9-  
324 23o, inclusive, 9-26, 9-31a, 9-32, 9-35, 9-35b, 9-35c, 9-40a, 9-42, 9-43, 9-  
325 50a, 9-56, 9-59, 9-168d, 9-170, 9-171, 9-172, 9-409, 9-410, 9-412, 9-436, 9-  
326 436a, 9-453e to 9-453h, inclusive, 9-453k or 9-453o, or (B) two thousand

327 dollars per offense or twice the amount of any improper payment or  
328 contribution, whichever is greater, against any person the commission  
329 finds to be in violation of any provision of chapter 150. The  
330 commission may levy a civil penalty against any person under  
331 subparagraph (A) or (B) of this subdivision only after giving the  
332 person an opportunity to be heard at a hearing conducted in  
333 accordance with sections 4-176e to 4-184, inclusive. In the case of  
334 failure to pay any such penalty levied pursuant to this subsection  
335 within thirty days of written notice sent by certified or registered mail  
336 to such person, the superior court for the judicial district of Hartford,  
337 on application of the commission, may issue an order requiring such  
338 person to pay the penalty imposed and such court costs, sheriff's fees  
339 and attorney's fees incurred by the commission as the court may  
340 determine. Any civil penalties paid, collected or recovered under  
341 subparagraph (B) of this subdivision for a violation of any provision of  
342 chapter 150 applying to the office of the Treasurer shall be deposited  
343 on a pro rata basis in any trust funds, as defined in section 3-13c, as  
344 amended, affected by such violation.

345 Sec. 12. Subsection (a) of section 9-333y of the general statutes is  
346 repealed and the following is substituted in lieu thereof:

347 (a) Any person who knowingly and wilfully violates any provision  
348 of this chapter shall be fined not more than five thousand dollars or  
349 imprisoned not more than five years or both. The Secretary of the State  
350 or the town clerk shall notify the State Elections Enforcement  
351 Commission of any such violation of which said secretary or such  
352 town clerk may have knowledge. Any such fine for a violation of any  
353 provision of this chapter applying to the office of the Treasurer shall be  
354 deposited on a pro rata basis in any trust funds, as defined in section 3-  
355 13c, as amended, affected by such violation.

356 Sec. 13. Subsection (b) of section 2-90 of the general statutes is  
357 repealed and the following is substituted in lieu thereof:

358 (b) Said auditors, with the Comptroller, shall, at least annually and  
359 as frequently as they deem necessary, audit the books and accounts of  
360 the Treasurer, including, but not limited to, trust funds, as defined in  
361 section 3-13c, as amended, and certify the results to the Governor. The  
362 auditors shall, at least annually and as frequently as they deem  
363 necessary, audit the books and accounts of the Comptroller and certify  
364 the results to the Governor. They shall examine and prepare  
365 certificates of audit with respect to the financial statements contained  
366 in the annual reports of the Treasurer and Comptroller, which  
367 certificates shall be made part of such annual reports. In carrying out  
368 their responsibilities under this section, said auditors may retain  
369 independent auditors to assist them.

370 Sec. 14. Section 3-13a of the general statutes is repealed and the  
371 following is substituted in lieu thereof:

372 (a) The Treasurer shall, with the advice and consent of the  
373 Investment Advisory Council, appoint [an assistant treasurer for  
374 investments] a pension fund investment officer, who shall serve at the  
375 pleasure of the Treasurer and whose compensation shall be  
376 determined by the Treasurer within a salary range established by the  
377 Treasurer in consultation with the Investment Advisory Council. The  
378 provisions of section 4-40 shall not apply to the compensation of said  
379 officer. [Such assistant] Said officer shall be sworn to the faithful  
380 discharge of [his] duties under law. [He] Said officer shall, under the  
381 direction of the Treasurer and subject to the provisions of sections 3-13  
382 to 3-13d, inclusive, and 3-31b, advise the Treasurer on investing the  
383 trust funds of the state [ . He] and shall report to the Treasurer on a  
384 quarterly basis regarding the allocation of assets in the investments of  
385 trust funds and any recommendations for changes to such allocation.  
386 After the Treasurer has reviewed such report, said officer shall make  
387 such report to the Investment Advisory Council. Said officer shall  
388 manage all information with regard to the investment of all trust funds  
389 and shall make such information available to the public by means

390 which shall include, but not be limited to, posting such information on  
391 a website on the Internet or any other generally available online  
392 computer network. Said officer shall also perform such other duties as  
393 the Treasurer may direct. In addition to [such assistant treasurer] said  
394 officer, the Treasurer may, with the advice and consent of the  
395 Investment Advisory Council, appoint investment officers and other  
396 personnel [,] to assist said [assistant treasurer] pension fund  
397 investment officer, which officers and other personnel shall serve at  
398 the pleasure of the Treasurer.

399 (b) The Treasurer may retain professional investment counsel to  
400 evaluate and recommend to [him] to the Treasurer changes in the  
401 portfolio of the state's trust and other funds. Said counsel shall inform  
402 the Treasurer of suitable investment opportunities and shall  
403 investigate the investment merit of any security or group of securities.

404 (c) The cost of operating the investment department including the  
405 cost of personnel and professional investment counsel retained under  
406 sections 3-13 to 3-13d, inclusive, and 3-31b shall be paid by the  
407 Treasurer charging the income derived from the trust funds.

408 Sec. 15. Section 9-213 of the general statutes is repealed and the  
409 following is substituted in lieu thereof:

410 (a) If the office of Secretary of the State [, Treasurer] or Comptroller  
411 becomes vacant, the General Assembly, if in session, shall fill it; but, if  
412 the vacancy occurs when the General Assembly is not in session or if  
413 the General Assembly fails to make an appointment to fill the vacancy,  
414 it shall be filled by the Governor.

415 (b) Any vacancy in the office of Attorney General shall be filled by  
416 appointment by the Governor for the unexpired portion of the term.

417 (c) (1) If the office of the Treasurer becomes vacant, the General  
418 Assembly, if in session, shall fill the vacancy for the unexpired portion

419 of the term. (2) If the vacancy occurs when the General Assembly is not  
420 in session, or if the General Assembly fails to make an appointment to  
421 fill the vacancy and the vacancy does not occur in the year in which a  
422 state election is to be held for the office of the Treasurer, the Governor  
423 shall appoint a person to serve as acting Treasurer until the next  
424 regular session of the General Assembly at which time the Governor  
425 shall nominate a successor for the office of Treasurer who shall be  
426 subject to approval by the General Assembly. (3) If the vacancy occurs  
427 when the General Assembly is not in session or if the General  
428 Assembly fails to make an appointment to fill the vacancy and the  
429 vacancy occurs in the year in which a state election is to be held for the  
430 office of the Treasurer, the Deputy Treasurer shall fill the vacancy for  
431 the unexpired portion of the term.

432       Sec. 16. This act shall take effect from its passage, except that section  
433       2 shall take effect January 1, 2001.

**FIN      Committee Vote:**   Yea   34   Nay   4   JFS

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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### **OFA Fiscal Note**

**State Impact:** See Explanation Below

**Affected Agencies:** Office of the State Treasurer, Department of Banking, Auditors of Public Accounts

**Municipal Impact:** None

### **Explanation**

#### **State Impact:**

The Office of the State Treasurer will require 2 positions funded by the Combined Investment Fund (CIF) and 1 position funded by the General Fund, to implement the provisions of the bill. The 2 positions funded by the CIF are for a chief investment officer (\$150,000 per year plus fringe benefits) and a principal investment analyst (\$85,000 per year plus fringe benefits.) The position funded by the General Fund is for a compliance officer (\$67,000 per year plus fringe benefits.)

A minimal revenue gain (less than \$10,000) is anticipated from civil penalties because it is expected that few penalties will be imposed. The bill specifies that all revenue collected from the penalties be deposited on a pro rata basis to the CIF.

The cost to the Auditors of Public Accounts for retaining independent auditors to assist them in auditing the CIF is estimated to be \$40,000.



Removing the 55% cap on the maximum amount of CIF money that can be invested in stock could increase the annual rate of return on pension funds, depending on the performance of stock versus non-stock investments. The information below, taken from the FY 99 Annual Report of the State Treasurer, shows the rate of return over 3, 5 and 10-year periods for each asset class of the Combined Investment Fund:

Asset Class	% Total Fund (6/30/99)	Annualized Rate of Return		
		3 Yr.	5 Yr.	10 Yr.
Total Fund	100.0%	15.62%	14.88%	11.13%
US Stocks – Mutual Equity Fund	46.0%	26.08%	25.08%	16.91%
US Fixed Income – Mutual Fixed Income Fund	31.1%	7.86%	8.48%	9.05%
International Stocks – International Stock Fund	12.5%	7.83%	7.62%	7.66%
Alternative Assets – Private Investment Fund	6.0%	7.52%	17.02%	7.52%
Equity Commercial Real Estate – Real Estate Fund	2.2%	15.21%	8.43%	1.51%
US Fixed Income – Commercial Mortgage Fund	1.2%	11.11%	11.01%	9.11%
Cash – Cash Reserve Account	1.0%	5.67%	5.75%	5.94%

To the extent that a higher rate of return on CIF investments is achieved due to removal of the cap on stocks, the level of contributions

from all appropriated funds may decrease.

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**OLR Bill Analysis**

sHB 5884

***AN ACT CONCERNING THE AUTHORITY OF THE TREASURER  
REGARDING INVESTMENT OF STATE TRUST FUNDS.*****SUMMARY:**

This bill requires the treasurer, with the Investment Advisory Council's (IAC) approval, to adopt a policy for investing state retirement and benefit funds (trust funds). It enhances the IAC's authority to review investments and investment services contracts and requires IAC approval for certain investments by lame-duck or acting treasurers.

The bill requires the treasurer, with the IAC's approval, to appoint a pension fund investment officer and set his compensation. This officer replaces the assistant treasurer for investments. He must advise the treasurer on investments, report quarterly to her and, after her review, to the IAC about trust fund asset allocations, manage information about state trust fund investments, and make the information public.

The bill restricts the governor's power to appoint someone to fill a vacancy in the Office of Treasurer when the General Assembly is not in session. It also requires the deputy treasurer to fill out any vacancy that occurs in a year when a regular election for treasurer is scheduled.

The bill requires prior disclosure of third-party fees the treasurer and quasi-public agencies pay in connection with securities investment contracts, and it bars the treasurer, her agents, and employees from directing the payment of third-party fees or making personal use of credits or other valuable items given by a broker or firm in connection with trust fund investments.

It also bans anyone from paying or receiving "finder's fees," including lobbying fees, in connection with any transaction involving the state or

a political subdivision. The ban does not apply to compensation paid to investment professionals for specified investment-related services.

Finally, the bill imposes civil penalties for violating the third-party and finder's fee provisions and allows the attorney general to sue to recover the penalties. It requires fines and damages paid for ethics and election law violations related to the treasurer's office to be paid into the affected state trust funds.

**EFFECTIVE DATE:** Upon passage, except the provisions eliminating the 55% limit on equity investments and requiring the treasurer to invest trust funds according to the investment policy, are effective January 1, 2001.

## **INVESTMENT POLICY STATEMENT**

The bill requires the treasurer to recommend to the IAC an investment policy statement that sets standards for investing state trust funds. It eliminates a restriction that generally bars her from investing more than 55% of trust funds in common stock and instead requires her to invest funds according to the policy statement.

### **Contents**

For each trust fund, the policy statement must include at least:

1. investment objectives;
2. asset allocation policies and risk tolerance;
3. definitions of classes of assets, including types of permissible investments within each class and any limits or other considerations governing fund investments;
4. guidelines for investment managers and for evaluating investment performance;
5. guidelines for selecting and terminating investment advisors, external money managers, investment consultants, custodians, brokers, lawyers, and other similar investment industry personnel who provide investment-related services; and
6. guidelines for proxy voting.

The statement must also describe the investment department staff's

role in making decisions about trust fund investments and include procedures and policies (1) to help manage information required to make such decisions and (2) for making the information public.

### ***Approval Process***

The treasurer must submit a draft statement to the IAC at a council meeting and make it public. She must publish notice of the statement's public availability in at least one newspaper that circulates generally in each municipality at least two weeks before she submits it at the IAC meeting.

The IAC must review the draft statement and publicize any recommended changes in the same way. The treasurer must adopt the statement with any of the IAC's changes she considers appropriate.

If the treasurer revises or adds to the statement, she must follow the same procedure. She must review the statement every year and consult the council about possible revisions.

## **INVESTMENT ADVISORY COUNCIL**

### ***Oversight of Trust Fund Investments***

The bill:

1. eliminates the IAC's authority to review the treasurer's civil list fund investments, thus leaving it with oversight of trust fund investments only;
2. requires the treasurer to give the council any information relevant to its review; and
3. requires the council to notify the auditors of public accounts and the comptroller promptly if it knows of any actual or contemplated trust fund handling or spending that is unauthorized, illegal, irregular, or unsafe, or that constitutes a breakdown in safekeeping.

In conformity with the requirement for an investment policy statement, the bill eliminates the IAC's current responsibility to recommend investment policies to the treasurer.

***Review of Contracts for Investment-Related Services***

The bill bars the treasurer from awarding a contract for trust fund investment-related services until the IAC has reviewed her recommendation. The treasurer must notify the council of her recommendation at a council meeting. The IAC then has 45 days to file a written review of the treasurer's selection with the treasurer's office. The review must be available for public inspection. The treasurer may proceed with the contract at the end of the 45-day review period.

***Oversight of Lane-Duck and Acting Treasurers***

The bill requires the treasurer, the deputy treasurer, or any acting treasurer to get the IAC's approval for any private equity or real estate investment or for any contract for services related to trust fund investments between any of the following events and the end of her term of office:

1. defeat for nomination as treasurer at a convention, in a primary vote, or primary recount, whichever is later;
2. defeat in a general election for the Office of Treasurer or in a general election recount; or
3. resignation.

These restrictions do not apply to an appointed treasurer approved by the General Assembly to fill a vacancy in the office (see below).

**PENSION FUND INVESTMENT OFFICER*****Appointment***

The bill eliminates the job of assistant treasurer for investments and substitutes a pension fund investment officer. As is the case with the assistant treasurer, the treasurer appoints this officer with the IAC's advice and consent. The bill gives the treasurer authority to set the officer's compensation within a range she establishes in consultation with the IAC. It exempts the officer's compensation from the requirement that salaries of executive branch employees that are not set by law be determined by the commissioner of administrative

services and approved by the Office of Policy and Management (OPM) secretary.

### ***Duties***

In addition to advising the treasurer on investments as the assistant treasurer for investments currently does, the pension fund investment officer must also report to the treasurer quarterly and, after the treasurer reviews the report, to the IAC on the allocation of assets in trust fund investments and recommended changes in those allocations. The bill also gives the officer responsibility for managing all information on trust fund investments and requires him to make the information available to be public. At a minimum, he must post the information on an Internet website or any other generally available online computer network.

### **FILLING VACANCIES IN THE OFFICE OF TREASURER**

The bill eliminates the governor's power to appoint someone as treasurer to fill the entire unexpired term if the office becomes vacant when the General Assembly is not in session. Instead, if the vacancy occurs when the General Assembly is not in session or if the General Assembly fails to make an appointment and it is not a year when a regular election for treasurer is to be held, the governor must appoint an acting treasurer. The acting treasurer must serve until the next regular General Assembly session. At that time, the governor must nominate a successor as treasurer and that person must be approved by the General Assembly. If the vacancy occurs when the General Assembly is not in session or if it fails to make an appointment and it is a year when a regular election for treasurer is to be held, the deputy treasurer must fill out the unexpired part of the term.

### **THIRD-PARTY FEES**

#### ***Disclosure Requirements***

Before the treasurer or any quasi-public agency contracts for legal, investment banking, investment advisory, underwriting, financial advisory, or brokerage firm services, the bill requires the parties to the contract to disclose to the treasurer or agency all third-party fees

attributable to the contract. The direct purchase or sale of individual securities under the contract may be executed only through banks, brokers, or dealers that have disclosed their third-party fees.

The required parties must disclose the fees in sworn affidavits in a form the treasurer or the agency requires in regulations each must adopt within three months of the bill's effective date. The treasurer must make the information available to the public.

Under the bill, third-party fees include management, placement agent, solicitation, referral, promotion, introduction, matchmaker, and due diligence fees.

### ***Ban On Directed Third-Party Fees***

The bill bars the treasurer from directing payment of third-party fees to anyone, except for third-party fees paid in connection with state bond sales and fees permitted by federal tax law in connection with guaranteed investment contracts related to issuing debt. It bars the treasurer and her agents and employees from making personal use of any credit or item of value given by a broker or firm in connection with trust fund investments.

### **FINDER'S FEE BAN**

The bill bars anyone from paying or receiving a direct or indirect finder's fee in connection with any investment transaction involving the state or a political subdivision.

### ***Covered Fees***

The bill defines a "finder's fee" as any compensation in cash, cash equivalents, or anything of value paid or received for any services in connection with an investment transaction to which the state, a quasi-public agency, or a political subdivision is a party. The bill specifies that finder's fees include fees paid for lobbying.

### ***Excluded Fees***



The ban does not apply to (1) compensation for legal, investment banking, investment advisory, underwriting, financial advisory, or brokerage firm services; (2) marketing or due diligence fees, which the treasurer must define in regulations, earned in connection with the offer, sale, or purchase of a security or investment interest; or (3) fees paid to investment professionals engaged in the ongoing business of representing investment managers.

“Investment professionals” are people or firms whose primary business is bringing together institutional investors and investment opportunities. They must either be registered or licensed (1) as broker-dealers or investment advisors under Connecticut law or under federal law with the Securities and Exchange Commission or the National Association of Securities Dealers or (2) furnish an investment manager with marketing services and have (a) had contacts about potential investments with more than 10 institutional investors in the preceding 12 months or (b) been involved in more than one transaction or potential transaction in the same period.

“Marketing services” include developing an overall marketing strategy focused on several institutional investors, designing or publishing marketing brochures or other presentation material like logos and brands for investment products, responding to requests for proposals, completing due diligence questionnaires, identifying potential investors, and providing other services the treasurer specifies in regulations she must adopt.

## **PENALTIES**

The bill imposes a civil penalty of up to \$2,000 for each violation of its third-party fees disclosure requirements and up to \$10,000 for each violation of the finder’s fee ban. In each case, the court must fix the fine. The bill allows the court in setting the amount to consider the nature, circumstances, extent, and seriousness of the violation; any history of past violations the economic benefit the violator received; and any other factors it considers appropriate.

Upon the treasurer’s complaint, the bill requires the attorney general to sue to recover the penalties in the Hartford Superior Court.

**PAYMENT OF CERTAIN PENALTIES TO TRUST FUNDS**

The bill requires any fines, penalties, or damages the State Ethics Commission collects for ethics code violations by public officials in the treasurer's office or by lobbyists that apply to the treasurer's office to be deposited in affected trust funds on a pro rata basis.

It also requires any civil penalties or fines paid to the State Elections Enforcement Commission for violations of campaign financing laws that apply to the treasurer to be deposited in any affected trust funds on a pro rata basis.

**AUDITORS OF PUBLIC ACCOUNTS**

The bill expressly requires the auditors of public accounts and the comptroller, when they conduct required annual audits of the treasurer's books and accounts, to examine those of the trust funds. It allows the auditors to hire independent auditors to help them audit the treasurer's office and the funds.

**BACKGROUND*****Trust and Civil List Funds***

Trust funds include the Municipal Employees Retirement Funds; Soldiers, Sailors' and Marines Fund; State's Attorney Retirement Fund; Teachers' Annuity Fund; Teacher's Pension Fund; Teachers' Survivorship and Dependency Fund; School Fund; State Employees' Retirement Fund; the Hospital Insurance Fund; and any other trust funds.

Civil list funds contain the proceeds of state general obligation bond sales before they are disbursed.

***Investment Advisory Council***

The council has 14 members. Five are public members, one each appointed by the governor and legislative leaders, three represent teachers' unions, and two represent state employee unions. The treasurer and the OPM secretary are ex officio members.

***Quasi-Public Agencies***

The quasi-public agencies are the Connecticut Development Authority, Connecticut Innovations, Inc., Connecticut Health and Educational Facilities Authority, Connecticut Higher Education Supplemental Loan Authority, Connecticut Housing Finance Authority, Connecticut Housing Authority, Connecticut Resources Recovery Authority, Connecticut Hazardous Waste Management Service, Connecticut Coastline Port Authority, Capital City Economic Development Authority, and Connecticut Lottery Corporation.

**COMMITTEE ACTION**

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 34      Nay 4